

FEDERAL ACQUISITION STREAMLINING ACT OF 1994 (S. 1587)

The post-cold war era poses new, political, economic, and military, security challenges for the United States throughout the world:

- (1) the threat has changed dramatically from the Cold-War era;
- (2) by FY 1997, defense spending will have been reduced in real terms by over 40 percent since 1985, and DoD's research and development, and procurement accounts will have been cut in excess of 60%; and
- (3) not only can we no longer support a segregated defense industrial base that can meet all of DoD's needs, we must have access to state-of-the-art technology that is more frequently available in the commercial marketplace.

At the same time, we are committed to maintaining a strong, effective, force capable of detering aggression against the United States and its allies and, if, necessary, responding to threats anywhere in the world where U.S. National interests are at risk, with minimal casualties. . In order to meet these new national security challenges, acquisition reform is imperative. Simply put—we must find ways to:

- (1) reduce expenditures—including both product and administrative costs;
- (2) support an integrated national industrial base composed of companies who are globally competitive, and, unless absolutely necessary to retain a defense unique capability, supply primarily to the commercial marketplace while also satisfying DoD's needs; and
- (3) gain access to state-of-the-art commercial technology on a timely basis.

As Secretary Perry noted in "Acquisition Reform: A Mandate for Change," to respond to this new environment, DoD must fundamentally reengineer the acquisition process. The Secretary of Defense, Secretary Deutch, and the Under Secretary of Defense (Acquisition and Technology) believe the passage of S. 1587 is a major step in achieving that goal. While much can be done within the agencies to change current processes, this bill removes many of the barriers that have kept small businesses and commercial companies from selling to the government, and allows federal agencies, including DoD to adopt business practices that are characteristic of world-class customers today.

Attached is a list of only some of the major Improvements that S. 1587 will make.

The Secretary of Defense, who has made Acquisition Reform one of his number one priorities, would like to thank the President and Vice-President, the many Members of Congress, and other senior administration officials, such as the Administrator of the Office of Federal Procurement Policy, whose leadership in getting this difficult and complex legislation passed, was critical. In addition, the Secretary, on behalf of the entire Department of Defense, would like to express his thanks to the staffs who represented their principals throughout this process, including the many individuals within DoD, all of whom spent many long hours over a year-and-a-half long period, to make this bill a reality. Finally, the Secretary wishes to thank the members of the Acquisition Law Advisory Panel on Streamlining and Codifying Acquisition Laws, the so-called "Section 800" panel, who

made this possible by putting together not only a comprehensive list of laws that should be streamlined, repealed, or otherwise modified, but who also took the time to explain the justifications for their recommendations.

According to Secretary Perry: 'The Federal Acquisition Streamlining Act of 1994, based in great part on the "Section 800 Panel" Report, is the most significant change to laws that govern Federal procurement, and specifically Defense procurement, since the passage of the Armed Services Procurement Act of 1947. It is not only a catalyst for improving the acquisition process throughout the federal government, but is one of the first concrete signs that the Acquisition Reform revolution has begun. We are truly on our way to carrying out the President and Vice-president's mandate to reinvent government.

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**SUMMARY OF MAJOR IMPROVEMENTS MADE BY S. 1587
THE FEDERAL ACQUISITION STREAMLINING ACT, OF 1994**

FACILITATE PURCHASES OF COMMERCIAL ITEMS -- The most often quoted reason commercial companies will not do business with the Federal government is the need to comply with unique provisions that they do not have to meet when supplying to commercial customers. The bill provides an impressive list of exemptions from such requirements at both the prime and subcontract level, while preserving the underlying socio-economic policies intended to be achieved by application of these unique laws. DoD believes the result will be to attract many state-of-the-art commercial companies to Federal business because they will be able to sell to us using contracts more similar to those they use in the commercial marketplace, and without causing an increase in overhead and the resulting loss of market share in their commercial operations. In addition, more small businesses, who now cannot afford the legal advice and compliance departments to ensure they are meeting every unique government requirement, will be able to sell to the Federal government.

- The bill provides a statutory preference for commercial items and more broadly defines commercial items than in the past. This will stimulate our planning process to concentrate on a broader range of commercial alternatives, and allow us to acquire state-of-the-art commercial technology from companies who could not or were not willing to set up the infrastructure in their company necessary to comply with the government-unique rules.

-- DoD has already gone a long way in facilitating this change through the Secretary's issuance of a policy letter creating a preference for the use of performance specifications or non-governmental standards in our programs rather than military specifications and standards. In this manner, we get away from telling contractor how to conduct their business and instead permit them to use best industry practices.

- Five Defense Pilot Programs are authorized by this legislation. These pilot programs are: Joint Primary Aircraft Training System (JPATS), Fire Support Combined Arms Tactical Trainer (FSCATT), Joint Direct Attack Munition (JDAM), Commercial Derivative Aircraft (CDA), and Commercial Derivative Engine (CDE). The purpose of the pilot programs is to take early advantage of conversion to a market-based system by removing barriers to the use of commercial practices and products for items that in some cases are military unique, but composed of substantial quantities of commercial components. In advance of the legislation, DoD provided the maximum regulatory relief available within current statutes. Now the department will be able to further these programs and increase the use of commercial practices and products. This authority is effective immediately upon enactment of the bill.

SIMPLIFY AND STREAMLINE THE CONTRACTING PROCESS - Today it takes an average of 26 days to complete a purchase for an item under \$25,000; 90 days for a simple sealed bid procurement; 210 days for competitive negotiations; and frequently, in excess of 300 days to award a competitive service contract. An equal concern of many companies is the complexity and burden of filling-out the forms necessary to provide a bid or proposal to the government. This bill will streamline and simplify such requirements by:

Elevating the small purchase threshold, formerly \$25,000 to a simplified acquisition threshold of \$100,000; and exempting contract actions under that threshold from an impressive list of statutory requirements. The new threshold will be provided in two phases: \$50,000 immediately and then \$100,000 once electronic commerce systems are in place.

-- This simplification facilitates the use of electronic commerce to accomplish such transactions and will eliminate the need for companies to pay representatives to visit procurement offices or manually screen the Commerce Business Daily for business opportunities. It will now be possible to do all of that, once electronic systems are "on-line," from their office by personal computer in conjunction with commercially available value added electronic networks. DoD has been leading the way in the development of a standard electronic commerce system that will provide "one face to industry." A Defense team was established last year and is now pursuing an implementation plan that will result in approximately 80% of DoD contract actions under that threshold being accomplished through electronic commerce by September 1996.

- Once totally effective, approximately 99% of the procurement actions (accounting for approximately 14% of the dollars) completed annually by the Department of Defense will be able to be executed using simplified procedures. Coupled with the use of electronic commerce, it will allow a substantial reduction in lead-times, thus reducing inventory carrying costs and allowing the acquisition community to be more responsive to customer needs in a timely manner.

In support of objectives of the National Performance Review of providing line managers more control, the bill provides a micro-purchase threshold (purchases less than \$2,500) allowing managers to purchase these small dollar requirements through use of credit cards, from the most competitive source they can find, be it Price Club, Staples or the General Administrative Services Agency (GSA).

- At the same time, the new threshold will offer more opportunities for small businesses. All contracts between the micro-purchase threshold (\$2,500) and under the new simplified acquisition threshold will be resewed for small business. The next step is to provide regulations implementing the statute for use by the acquisition workforce, and the contractor community. We intend to do this as quickly as is possible.

~~FEDERAL ACQUISITION STREAMLINING ACT OF 1994 (I 1577)~~
Subj: ~~NAVY ACQUISITION WAIVER NOTIFICATION PROCESS~~

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